

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

ERIC CERVINI, et al.,  
Plaintiffs,

v.

ELIAZAR CISNEROS, et al.,  
Defendants.

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1:21-CV-0565-RP

**ORDER**

Before the Court is Plaintiffs' Notice of Dismissal of Defendant Kyle Kruger, (Dkt. 183). On April 27, 2023, Plaintiffs notified the Court that they sought to voluntarily dismiss all claims against Defendant Kyle Kruger pursuant to Rule 41(a)(1)(A)(i). (Dkt. 8). Rule 41(a)(1)(A)(i) allows a plaintiff to voluntarily dismiss an action without a court order by filing a notice of dismissal before the opposing party serves an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A)(i). Though Rule 41 speaks of dismissing an "action," the Fifth Circuit has interpreted it to allow plaintiffs to dismiss all of their claims against individual opposing parties. *See Oswalt v. Scripto, Inc.*, 616 F.2d 191, 194–95 (5th Cir. 1980); *Plains Growers ex rel. Florists' Mut. Ins. Co. v. Ickes-Braun Glasshouses, Inc.*, 474 F.2d 250, 254–55 (5th Cir. 1973); *see also* 9 Charles A. Wright, et al. *Federal Practice and Procedure* § 2362 (3d ed. Aug. 2019 update).

Defendant has not served an answer or motion for summary judgment. Plaintiffs' notice is therefore "self-effectuating and terminates the case in and of itself; no order or other action of the district court is required." *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 973 (5th Cir. 2015), *as revised* (May 15, 2015).

Accordingly, **IT IS ORDERED** that Defendant Kyle Kruger is **DISMISSED** as a party in this suit.

**SIGNED** on July 25, 2023.

A handwritten signature in blue ink, appearing to read "R. Pitman", written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE